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PATENT

Customer No. 34,986

Attorney Docket No. 01064.0011-05-000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: )  
Richard LEVY ) Group Art Unit: 1714  
Application No.: 09/359,809 ) Examiner: Cephia Toomer  
Filed: July 23, 1999 )  
For: LUBRICANT COMPOSITIONS AND )  
METHODS )

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

NOTICE OF APPEAL

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the decision dated August 10, 2005 of the Examiner rejecting the application a second time.

The item(s) checked below are appropriate:

1. ☐ A Petition for extension of time to respond to the final rejection was filed on [Date] extending the period for response to [Date].
2. ☐ A Petition for extension of time to further extend the period for response to [Date] is enclosed together with a fee of \$[Fee].
3. ☐ The Appeal Fee of \$310.00 (or \$155.00 if by small entity)  
☐ is enclosed or ☐ is to be charged to Deposit Account No. 06-0916
4. ☒ An Appeal was filed in this application on April 10, 2002 with an appeal fee in the amount of \$160.00. The examiner reopened prosecution on June 12, 2003 and appellant responded on September 4, 2003, after which the examiner issued a subsequent office action on December 3, 2003. Applicant appealed a second time on December 6, 2003. After he filed the appeal brief, applicant was required to file an Information Disclosure Statement to call related art to the examiner's attention cited in a

related application and the examiner reopened prosecution to address the related art. Subsequent prosecution in this application led to the second rejection contained in the examiner's August 10, 2005 Office Communication. The Manual of Patent Examining Procedure §1208.02 waives payment of the Notice of Appeal fee in these circumstances.

Respectfully submitted,

THE LAW OFFICES OF ROBERT J. EICHELBURG

By: /Robert J. Eichelburg, Reg. No. 23,057/

Dated: October 5, 2005

Post Office Address (to which  
correspondence is to be  
sent)

The Law Offices of Robert J. Eichelburg  
HODAFEL Building, Suite 200 Annapolis  
Maryland 21403

(410) 295-1508

**CERTIFICATE OF FACSIMILE TRANSMISSION PURSUANT TO 37 C.F.R. § 1.6 (d)**

I hereby certify that this correspondence is being transmitted pursuant to 37 C.F.R. § 1.6(d) by facsimile to The United States Patent and Trademark Office at their Central FAX Number, (571) 273-8300, on the date indicated below.

By: /Robert J. Eichelburg, Reg. No. 23,057/

Dated: October 5, 2005

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**DEC 02 2005  
PATENT**

**CUSTOMER NUMBER, 34,986  
Docket No. 01064.0011-05000**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of: )  
Richard LEVY ) Group Art Unit: 1714  
Serial No.: 09/359,809 ) Examiner: Cephia Toomer  
Filed: July 21, 1999 )  
For: LUBRICANT COMPOSITIONS AND )  
METHODS )

Commissioner for Patents  
P. O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

**APPELLANT'S BRIEF ON APPEAL PURSUANT TO 37 C.F.R. § 41.37**

Appellant submits the following brief to perfect the appeal filed on October 5, 2005. The brief sets forth the authorities and arguments on which appellant will rely to maintain the appeal.

Appellant previously paid the fee required by 37 C.F.R. § 41.20(b) (2), at the time of filing the previous brief in this application, and The Manual of Patent Examining Procedure (M.P.E.P.) §1207.04 waives the fee for filing this brief.

**(I) Real Party in Interest**

The inventor assigned the parent application Serial No. 08/487,436, filed June 7, 1995 to Lee County Mosquito Control District. The assignment was recorded at reel 7878, frame 0620 on August 23, 1995, which makes Lee County Mosquito Control District the real party in interest.

Claim 96 The composition of claim 75 wherein said organic lubricant comprises a synthetic oil lubricant or grease thereof.

Claim 97 The composition of claim 75 wherein said organic lubricant comprises a two-mol ethoxylate of isostearyl alcohol.

Claim 98 The composition of claim 75 wherein said organic lubricant comprises a soap.

Claim 99 The composition of claim 75 wherein said organic lubricant comprises a polymerized olefin.

Claim 100 The composition of claim 75 wherein said organic lubricant comprises an organic ester.

**CERTIFICATE OF FACSIMILE TRANSMISSION PURSUANT TO 37 C.F.R. § 1.6 (d)**

I hereby certify that this correspondence is being transmitted pursuant to 37 C.F.R. § 1.6(d) by facsimile to The United States Patent and Trademark Office, facsimile telephone number (571) 273-8300 on the date indicated below.

By: /Robert J. Eichelburg, Reg. No. 23,057/

Dated: December 2, 2005

United States Patent and Trademark Office  
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6. ☒ A check in the amount of \$ 380.00 to cover the filing fee is enclosed.
7. ☒ The Commissioner is hereby authorized to charge any fees which may be required including fees due under 37 C.F.R. § 1.16 and any other fees due under 37 C.F.R. § 1.17, or credit any overpayment during the pendency of this application to Deposit Account No. 06-0916.
8. ☒ Amend the specification by inserting before the first line, the sentence:

--This is a ☐ continuation ☒ division of parent application Serial No. 08/487,436, filed June 7, 1995 and Continuation Application Serial No. 08/943,123, filed December 3, 1997 all of which are incorporated herein by reference.

9. ☐ New formal drawings are enclosed.
10. ☒ The prior application is assigned of record to: LEE COUNTY MOSQUITO CONTROL DISTRICT
11. ☐ Priority of application Serial No. \_\_\_\_\_, filed on \_\_\_\_\_ in \_\_\_\_\_ (country) is claimed under 35 U.S.C. § 119. A certified copy ☐ is enclosed or ☐ is on file in the prior application.
12. ☒ A verified statement claiming small entity status ☐ is enclosed or ☐ is on file in the prior application.
13. ☒ The power of attorney in the prior application is to at least one of the following: FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P., Douglas B. Henderson, Reg. No. 20,291; Ford F. Farabow, Jr., Reg. No. 20,630; Arthur S. Garrett, Reg. No. 20,338; Donald R. Dunner, Reg. No. 19,073; Brian G. Brunsvold, Reg. No. 22,593; Tipton D. Jennings, IV, Reg. No. 20,645; Jerry D. Voight, Reg. No. 23,020; Laurence R. Hefter, Reg. No. 20,827; Kenneth E. Payne, Reg. No. 23,098; Herbert H. Mintz, Reg. No. 26,691; C. Larry O'Rourke, Reg. No. 26,014; Albert J. Santorelli, Reg. No. 22,610; Michael C. Elmer, Reg. No. 25,857; Richard H. Smith, Reg. No. 20,609; Stephen L. Peterson, Reg. No. 26,325; John M. Romary, Reg. No. 26,331; Bruce C. Zotter, Reg. No. 27,680; Dennis P. O'Reilly, Reg.

PETITION FOR EXTENSION. If any extension of time is necessary for the filing of this application, including any extension in the parent application, serial no. 08/943.125, filed DECEMBER 3, 1997, for the purpose of maintaining copendency between the parent application and this application, and such extension has not otherwise been requested, such an extension is hereby requested, and the Commissioner is authorized to charge necessary fees for such an extension to our Deposit Account No. 06-0916. A duplicate copy of this paper is enclosed for use in charging the deposit account.

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

By: Robert J. Eichelburg  
Robert J. Eichelburg  
Reg. No.: 23,057

Dated: July 23, 1999